

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael King T5	Team: Team # 5	CCRB Case #: 200711292	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 08/06/2007 1:10 AM	Location of Incident: Church Avenue between 56th & 57th Streets	Precinct: 67	18 Mo. SOL 2/6/2009	EO SOL 2/6/2009	
Date/Time CV Reported Mon, 08/06/2007 3:09 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 08/06/2007 3:09 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Dustin Edwards	09166	938420	067 PCT
2. POM Mark Vazquez	29928	933447	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Michael Kraft	01453	924040	067 PCT
2. POM Brian Foley	17522	923834	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Dustin Edwards	Abuse: Officer Dustin Edwards stopped § 87(2)(b)	
B.POM Mark Vazquez	Abuse: Officer Mark Vazquez stopped § 87(2)(b)	
C.POM Dustin Edwards	Abuse: Officer Dustin Edwards searched § 87(2)(b)	
D.POM Mark Vazquez	Abuse: Officer Mark Vazquez searched § 87(2)(b)	
E.POM Dustin Edwards	Off. Language: Officer Dustin Edwards made remarks to § 87(2)(b) based upon race.	
F.POM Mark Vazquez	Force: Officer Mark Vazquez used physical force against § 87(2)(b)	
G.POM Dustin Edwards	Force: Officer Dustin Edwards used physical force against § 87(2)(b)	
H.POM Mark Vazquez	Abuse: PO Mark Vazquez threatened § 87(2)(b) with the use of force.	
§ 87(4-b), § 87(2)(g)		

Synopsis

At approximately 1:10 AM on August 8, 2007, PO Dustin Edwards stopped § 87(2)(b) (allegation A) and PO Mark Vazquez stopped § 87(2)(b) (allegation B) in the vicinity of Church Avenue between 56th and 57th Streets in Brooklyn. § 87(2)(b) alleged that PO Edwards searched him (allegation C) and § 87(2)(b) alleged that PO Vazquez searched him (allegation D). § 87(2)(b) also alleged that PO Edwards made remarks to him based upon race (allegation E). PO Vazquez subsequently arrested § 87(2)(b) for disorderly conduct, inciting a riot, assault in the second degree, and resisting arrest. In order to effect the arrest, PO Vazquez and PO Edwards used physical force against § 87(2)(b) (allegations F and G). During the arrest, PO Vazquez removed his pepper spray and threatened to use the pepper spray against § 87(2)(b) if he did not stop resisting (allegation H). § 87(2)(b) was not arrested or issued a summons.

§ 87(2)(g)
§ 87(2)(g), § 87(4-b)

Inv. Gene Schildkraut conducted the investigation of this complaint. On March 13, 2008, the case was reassigned to Inv. Michael King, who drafted the closing report.

Summary of Complaint

§ 87(2)(b) (*enclosure F1*)
§ 87(2)(b) filed this complaint on behalf of his brother, § 87(2)(b) by calling the CCRB on August 6, 2007. § 87(2)(b) was not a victim in the incident, but claimed to witness the incident. The CCRB obtained a brief telephone statement from him on August 21, 2007. § 87(2)(b) failed to appear for interviews he scheduled with the CCRB on August 28, 2007 and September 5, 2007. As a result, no formal statement was obtained from him.

§ 87(2)(b) (*enclosure E1-E7*)
§ 87(2)(b) a 6' § 87(2)(b) African-American male with black hair § 87(2)(b) provided a detailed telephone statement to the CCRB on August 27, 2007. The CCRB interviewed § 87(2)(b) on September 4, 2007. § 87(2)(g)

At approximately 1:30 AM on August 6, 2007, § 87(2)(b) was walking with his friend § 87(2)(b) in the vicinity of Church Avenue and 56th Street in Brooklyn. They were going to a little bar in the area and were walking towards the Washington Mutual to get money from an ATM. § 87(2)(b)'s brother, § 87(2)(b) went with them to the bar, though § 87(2)(b) did not indicate if § 87(2)(b) went with him and § 87(2)(b) to the bank. § 87(2)(b) was wearing orange and black sneakers with black jeans with orange lines on them, an orange shirt with Roc-a-Wear designs on it and a black and orange hat with an eagle design on it. § 87(2)(b) was wearing Jeans and a shirt and sneakers, but § 87(2)(b) did not recall what color his shirt was. While walking to the bank, two officers exited their marked police vehicle and "bum-rushed" them and asked them where the money and drugs were. PO Dustin Edwards (identified by the investigation based on the statements) approached § 87(2)(b) and PO Mark Vazquez (identified by the investigation based on the statements obtained) approached § 87(2)(b). PO Edwards reached directly into § 87(2)(b)'s pocket without patting him down first. When § 87(2)(b) asked him to move his hand, PO Edwards started to pat him down. § 87(2)(b) pushed PO Edwards' hand away and moved away from him. § 87(2)(b) showed his corrections officer shield to PO Vazquez. PO Edwards stopped searching him. § 87(2)(b) did not hear what PO Vazquez said to § 87(2)(b).

Approximately five minutes after the officers first approached, § 87(2)(b) and § 87(2)(b) started to walk away. PO Edwards told § 87(2)(b) to keep on walking, and § 87(2)(b) said that he would. PO Edwards then told him to "shut up and keep on walking," and § 87(2)(b) said that he would. PO Edwards called § 87(2)(b) a "black piece of shit." § 87(2)(b) responded, "Look at you. You're in uniform and you're being so racist." PO Edwards then said, "You know what? Let's just get this guy; he talks too much." § 87(2)(b) did not move because he wanted to see what the officers would do, and he did not want to aggravate them by running. PO Edwards grabbed § 87(2)(b) by the neck and put him in a

headlock with his left arm, and PO Vazquez kned § 87(2)(b) three times. § 87(2)(b) tried to move PO Edwards' hand to keep him from choking him. The officers put him on the ground, and both officers started to kick him. PO Edwards pulled out his pepper-spray, and PO Vazquez pulled out his asp, but they did not use the pepper spray or asp. A group of people had formed and were telling the officers to stop. The officers put § 87(2)(b) in handcuffs while he was face down on the ground and put him into the marked police vehicle before calling for backup. § 87(2)(b) and § 87(2)(b) were yelling at the officers and asking them why they were acting that way toward § 87(2)(b) but § 87(2)(b) told them to stop and not get involved. § 87(2)(b) scratched his knees, but he did not seek any medical attention for the injuries; he put band-aids on the scrapes when he got home. He was then transported to the stationhouse. § 87(2)(b) stated that his Versace sunglasses and a white gold chain with a Jesus peace sign on it were broken as a result of the incident, though § 87(2)(b) admitted that he never retrieved the items from the stationhouse.

It should be noted that § 87(2)(b) provided the names of the officers (PO Vazquez and PO Edwards), as well as their shield numbers at the time of his formal statement, though he did not indicate which officer did what nor did he indicate how he obtained the officers' information. It should also be noted that § 87(2)(b)'s description of PO Edwards indicated that the officer was a white male; PO Edwards identified himself as African-American when interviewed at the CCRB.

§ 87(2)(b) (*enclosure G1-G8*)

§ 87(2)(b) a 6'2" 270-pound § 87(2)(b) African-American male with black hair § 87(2)(b) filed a duplicate complaint regarding this incident via the nyc.gov website. He provided a detailed telephone statement to the CCRB on August 31, 2007 and October 1, 2007. § 87(2)(b) added the following details.

§ 87(2)(b) claimed that he and § 87(2)(b) were walking to a Laundromat, not a bank, to get money to pay the cover charge for the bar. § 87(2)(b) heard someone tell him to wait, and two police officers drove up and stopped their marked police vehicle on the sidewalk with the passenger side nearest § 87(2)(b) and § 87(2)(b). PO Vazquez (identified by the investigation based on the statements obtained) was driving the marked police vehicle. PO Vazquez approached § 87(2)(b) and asked him where the weed and guns were, and PO Edwards approached § 87(2)(b). PO Vazquez reached into § 87(2)(b)'s front two and rear two pockets. § 87(2)(b) asked why they were searching him. PO Vazquez told him that the area has a high rate of crime and that gave him the right to search. PO Vazquez searched in each of § 87(2)(b)'s four pants pockets saying that he was looking for guns and drugs. PO Vazquez took § 87(2)(b)'s § 87(2)(b) identification from his back pocket. § 87(2)(b) later stated that he told PO Vazquez about his Corrections Officer identification before PO Vazquez reached into his back pocket. When he saw § 87(2)(b)'s § 87(2)(b) he put it back into § 87(2)(b)'s pocket and went to "assist" PO Edwards with § 87(2)(b). § 87(2)(b) was speaking loudly and telling the officers that he "knew his rights." PO Edwards was grabbing the outside of § 87(2)(b)'s pockets, and § 87(2)(b) was backing up toward a the wall. PO Vazquez said "let's go" to PO Edwards, and they turned and walked toward their car. § 87(2)(b) did not allege that any of the officers used offensive language during the incident or called § 87(2)(b) "a black piece of shit."

§ 87(2)(b) had his hand on § 87(2)(b)'s shoulder because they were both aggravated. § 87(2)(b) told § 87(2)(b) that "he knew his rights" and that the officers could not treat him that way. PO Edwards turned around and told PO Vazquez, "let's get him." PO Edwards grabbed § 87(2)(b)'s arm and punched him five to six times in the torso while trying to "slam" him to the ground. PO Vazquez pushed § 87(2)(b) aside and punched § 87(2)(b) five to six times in the torso before grabbing his leg and bringing both § 87(2)(b) and PO Edwards to the ground. PO Vazquez punched § 87(2)(b) twice while he was on the ground while PO Edwards got up and stood next to him. PO Vazquez then removed his pepper-spray from his belt and told § 87(2)(b) that he was going to spray him. By this time a crowd had formed; PO Edwards told the crowd to stay back. PO Vazquez put his pepper-spray back in his belt without discharging it, and both he and PO Edwards told § 87(2)(b) to put his hands behind his back. § 87(2)(b) complied and the officers handcuffed him and brought him to their marked police vehicle. The officers then called for backup, and another marked police vehicle with two officers arrived. PO Vazquez and PO Edwards transported § 87(2)(b) to the stationhouse. § 87(2)(b) did not make any allegations against the responding officers.

After § 87(2)(b) was removed from the scene, § 87(2)(b) went to the bar to find § 87(2)(b)'s brothers, § 87(2)(b) and another brother whose name § 87(2)(b) could not recall. § 87(2)(b) and § 87(2)(b)'s brothers then went to the stationhouse. § 87(2)(b)'s brothers accompanied § 87(2)(b) to the

precinct stationhouse in order to claim § 87(2)(b)'s property. § 87(2)(b) obtained the names and shield numbers of both officers during the incident, but could not recall the information at the time of his interview.

Results of Investigation

Attempts to Interview Witness (enclosure M1-M7)

The CCRB established contact with § 87(2)(b)'s other brother, § 87(2)(b) and scheduled two interviews with § 87(2)(b) on December 7, 2007 and December 11, 2007. § 87(2)(b) failed to appear for the two interviews. As a result, no formal statement was obtained from him.

PO Mark Vazquez (enclosure H1-H10)

PO Vazquez, a 5'10" 175-pound § 87(2)(b) old Hispanic male with brown hair, had the following memo book entries. At 1:35 AM, he stopped one male on the corner East 55 Street and Church Avenue. At 1:41 AM, PO Vazquez reported a 10-92C (arrest made) for § 87(2)(b) § 87(2)(b) DOB § 87(2)(b) arrest# § 87(2)(b). At 2:00 AM, PO Vazquez released § 87(2)(b)'s property to § 87(2)(b).

PO Vazquez prepared the complaint report and arrest report for § 87(2)(b) § 87(2)(a) 160.50

§ 87(2)(b)
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§ 87(2)(b)

PO Vazquez was interviewed at the CCRB on November 14, 2007. On August 5, 2007, PO Vazquez worked from 11:15 PM to 7:50 AM assigned to patrol sectors G, H, I and J with PO Dustin Edwards in marked police vehicle number 1851.

At approximately 1:35 AM, PO Vazquez was driving westbound on Church Avenue when he saw § 87(2)(b) entering a nightclub with his friend. There were a few individuals trying to get into the club and the bouncer was searching individuals. PO Vazquez saw the bouncer try to search § 87(2)(b) and his friend, but they refused to be searched. The bouncer turned them away, and § 87(2)(b) exchanged words with the bouncer. § 87(2)(b) put up his hands as though to say, "I don't want to be searched." The bouncer shook his head and gestured that § 87(2)(b) and his friend had to leave.

§ 87(2)(b) then walked eastbound toward PO Vazquez's marked police vehicle, which was parked in the vicinity of East 56th Street and Church Avenue. § 87(2)(b) saw the marked police vehicle and turned around at the sight of them and started to walk westbound on Church Avenue. PO Vazquez stated that his marked police vehicle was the only car in the vicinity when § 87(2)(b) turned around, so he assumed that § 87(2)(b) turned because he saw the marked police vehicle. PO Vazquez decided to stop § 87(2)(b) and § 87(2)(b) because he has had a lot of firearm arrests in his career, and when someone approaches a bouncer but refuses to be searched, it is usually because he is carrying a weapon. When PO Vazquez saw § 87(2)(b) turned away from the club, his suspicion was raised, and when § 87(2)(b) changed direction at the sight of the marked police vehicle, PO Vazquez decided to stop § 87(2)(b). PO Vazquez made no reference to the arrest report's claim that § 87(2)(b) had littered.

PO Vazquez stopped § 87(2)(b) on the corner of East 55th Street and Church Avenue. PO Vazquez and PO Edwards exited the vehicle and talked to § 87(2)(b) and his friend, § 87(2)(b). PO Vazquez approached § 87(2)(b) who was cooperative and stated that he did not have anything and lifted his shirt without any prompting to do so. PO Vazquez did not ask § 87(2)(b) for ID; he did not recall if § 87(2)(b) provided ID without being asked. PO Edwards approached § 87(2)(b) but § 87(2)(b) started to back away and use profanity, though PO Vazquez claimed that he was concentrating on § 87(2)(b) and did not recall what § 87(2)(b) had said. PO Vazquez did not hear what PO Edwards was saying to § 87(2)(b). A crowd started to form as people started to come out of the club that § 87(2)(b) was going to enter and another club on the corner of East 55th Street and Church Avenue. People in the crowd told § 87(2)(b) to "chill."

At that point, the officers requested § 87(2)(b)'s ID, but he refused to give it to them. PO Vazquez decided to put § 87(2)(b) in handcuffs and told PO Edwards to handcuff § 87(2)(b). PO Edwards told § 87(2)(b) to put his hands behind his back, and § 87(2)(b) pushed PO Edwards with two hands and started to struggle with him. PO Vazquez walked over and tried to assist PO Edwards by restraining § 87(2)(b). However, § 87(2)(b) grabbed both officers by their vests and "threw" them onto the ground. § 87(2)(b) pushed PO Edwards into a car, and that at one point, § 87(2)(b) had his hand on PO Vazquez's gun. PO Vazquez's watch broke during the struggle. While § 87(2)(b) was lying on his back on the ground and the officers were trying to get a hold on his hands, PO Vazquez took out his pepper-spray and told § 87(2)(b) "If you don't put your hands behind your back, I'm going to have to mace you." Someone in the crowd said, "Don't mace him!" § 87(2)(b) said, "Alright, I'll put my hands behind my back," and he complied. PO Vazquez stated that they finally were able to bring § 87(2)(b) to the ground, but PO Edwards injured his arm in the process, causing it to bleed. They then handcuffed § 87(2)(b) and called a sergeant to respond. PO Vazquez stated that neither he nor PO Edwards ever removed their asps, and they do not carry standard batons. § 87(2)(b) did not interfere. § 87(2)(b) was searched only after he was in handcuffs. PO Vazquez denied that he or PO Edwards punched or kicked § 87(2)(b) and also denied that § 87(2)(b) punched the officers at any time. PO Vazquez denied that he or PO Edwards, whom PO Vazquez noted is half-black, called § 87(2)(b) a "black piece of shit" or used any profanity during the incident.

§ 87(2)(b) was transported to the 67th Precinct stationhouse where he was lodged, and PO Vazquez asked if he had any injuries. § 87(2)(b) stated that he had no injuries and refused medical attention. § 87(2)(b) and § 87(2)(b) came to the precinct stationhouse to pick up § 87(2)(b)'s property, and § 87(2)(b) told PO Vazquez that he worked as a corrections officer. PO Edwards went to the hospital to have his injuries checked, and PO Vazquez started to file the Online Booking sheet, complaint report and the VSA form (which he stated is court paperwork).

PO Dustin Edwards (enclosure II-II10)

PO Dustin Edwards, a 6' 185-pound § 87(2)(b) old African-American male with brown hair, had the following memo book entries. At 1:35 AM, PO Edwards indicated that one male was stopped at the corner of Church Avenue and East 55th Street. At 1:41 AM, PO Edwards noted that PO Vazquez made one arrest. At 3:45 AM, PO Edwards went to § 87(2)(b) to have his right elbow examined. At 5:00 AM, PO Edwards left § 87(2)(b).

PO Edwards filed line of duty paperwork for his elbow. PO Edwards had his elbow examined at SUNY Downstate at 3:45 AM. PO Vazquez accompanied him.

PO Edwards was interviewed at the CCRB on November 14, 2007. § 87(2)(g)

According to PO Edwards, § 87(2)(b) "got into a little something with the bouncer." When § 87(2)(b) saw the marked police vehicle, he turned around and walked in the opposite direction. His changing direction and his being turned away from the club led PO Edwards and PO Vazquez to want to stop § 87(2)(b). PO Edwards suspected that § 87(2)(b) might be carrying a weapon because he was frisked and not let into the club.

PO Edwards and PO Vazquez stopped the marked police vehicle near § 87(2)(b) and got out of the car. PO Vazquez approached and spoke with § 87(2)(b) while PO Edwards approached § 87(2)(b). As the officers approached, § 87(2)(b) turned toward the officers, said, "This is bullshit," and he started to get "agitated." PO Edwards told § 87(2)(b) to calm down because PO Edwards wanted to ask him some questions. § 87(2)(b) said, "I don't have to do anything." People started to come out of the club that turned § 87(2)(b) away, and people also started to come out of another club up the block. The crowd was curious and wanted to see what was going on. PO Edwards felt that the crowd was hostile towards the officers because the people in that neighborhood do not like the police, however, they were not doing anything specific to alarm the officers. At that point, PO Edwards decided to issue § 87(2)(b) a summons for disorderly conduct and asked for his identification. § 87(2)(b) refused to give the identification. PO Vazquez suggested that they handcuff § 87(2)(b) because a crowd was gathering and they wanted to get him away from the situation. PO Edwards went to handcuff § 87(2)(b) but § 87(2)(b) pushed him. PO Edwards approached § 87(2)(b) again and attempted to grab his hands, and § 87(2)(b) pushed PO Edwards again. § 87(2)(b) then grabbed PO Edwards's vest, and PO Edwards grabbed § 87(2)(b).

§ 87(2)(b) They wrestled and hit a car and a nearby building before ending up on the sidewalk. PO Vazquez tried to help PO Edwards, but § 87(2)(b) grabbed PO Vazquez and pushed him around as well. Eventually the officers successfully handcuffed § 87(2)(b). Sgt. Kraft responded to the scene after § 87(2)(b) was put into the marked police vehicle. PO Edwards denied that he or PO Vazquez punched or kicked § 87(2)(b). PO Edwards denied that he or PO Vazquez called § 87(2)(b) a “black piece of shit” or used any profanity.

Sgt. Michael Kraft (enclosure J1-J4)

Sgt. Kraft, a 6’ 185-pound § 87(2)(b) old white male with black hair, had the following memo book entries. At 1:30 AM, he received a 10-85 (request for back-up) from Sector G requesting that a sergeant respond to 55th Street and Church Avenue. At 1:42 AM, Sgt. Kraft noted that Sector G had made an arrest.

Sgt. Kraft was interviewed by the CCRB on February 13, 2008. On August 6, 2007, Sgt. Kraft was assigned as the patrol supervisor and PO Brian Foley was his partner; they used marked police vehicle 4139. Sgt. Kraft provided no details regarding the initial stop and subsequent arrest of § 87(2)(b) as Sgt. Kraft arrived after the arrest. The officers informed Sgt. Kraft of what occurred and then Sgt. Kraft resumed patrol.

NYPD Records (enclosure K1)

There is no stop and frisk report prepared for the stop of § 87(2)(b).

Disposition of Criminal Case (enclosure L3)

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB Histories (enclosure C1-C3)

§ 87(2)(b) filed a duplicate complaint regarding this incident (§ 87(2)(b)). He has not filed any other complaints.

§ 87(2)(b) has not filed any other complaints. He was cited in § 87(2)(b)'s duplicate complaint.

Officer CCRB Histories (enclosure B1-B2)

PO Edwards has no substantiated CCRB allegations in his two years with the NYPD.

PO Vazquez has no substantiated CCRB allegations in his four years with the NYPD.

Conclusions and Recommendations

Officer Identification

It should be noted that § 87(2)(b) provided the names of the officers when he provided his statement as “Edwards” and “Vazquez,” though he did not indicate by name which officer committed each allegation. § 87(2)(g)

§ 87(2)(b) and § 87(2)(b)'s description of the subject officer who stopped § 87(2)(b) searched him, and made remarks based upon race identified a white male officer as the subject. However, there was no white male officer present for the incident. PO Vazquez identifies himself as Hispanic while PO Edwards, PO Vazquez’s partner for the incident, identifies himself as African-American. The two civilian statements distinguished between the two officers such that they identified the Hispanic officer (PO Vazquez) as the officer who stopped (allegation B) and searched (allegation D) § 87(2)(b) while the Hispanic officer’s partner (PO Edwards) stopped (allegation A) and searched § 87(2)(b) (allegation C), and directed offensive language at § 87(2)(b) (allegation E) § 87(2)(g)

The two officers confirmed that they used physical force against § 87(2)(b) to effect his arrest. § 87(2)(g)

Officers stopped § 87(2)(b) and § 87(2)(b). PO Edwards and PO Vazquez used physical force against § 87(2)(b) in order to arrest him. PO Vazquez removed his pepper spray near the end of the apprehension, but did not use it.

§ 87(2)(b) and § 87(2)(b) alleged that PO Edwards stopped and searched § 87(2)(b) PO Vazquez claimed that he approached § 87(2)(b) while PO Edwards interacted with § 87(2)(b) PO Edwards claimed that he approached § 87(2)(b) while PO Vazquez approached and interacted with § 87(2)(b) The officers did not know if § 87(2)(b) was searched.

§ 87(2)(b) alleged that PO Edwards grabbed him by the neck and put him in a headlock with his left arm, and that PO Vazquez kned § 87(2)(b) three times. § 87(2)(b) also alleged that the officers put him on the ground (he did not indicate how) and then kicked him. § 87(2)(b) claimed that PO Edwards grabbed § 87(2)(b)'s arm and punched him five to six times in the torso while trying to “slam” him to the ground. § 87(2)(b) also alleged that PO Vazquez pushed § 87(2)(b) aside and punched § 87(2)(b) five to six times in the torso before grabbing his leg and bringing both § 87(2)(b) and PO Edwards to the ground. PO Vazquez punched § 87(2)(b) twice while he was on the ground while PO Edwards got up and stood next to him. For their part, the officers claimed that PO Edwards asked § 87(2)(b) to put his hands behind his back, at which time § 87(2)(b) pushed PO Edwards and a struggle ensued. PO Edwards claimed that § 87(2)(b) pushed him several times and eventually grabbed a hold of the officer by his vest, at which point the two wrestled with each other and even bumped into a parked car and nearby building. PO Vazquez claimed that § 87(2)(b) grabbed him and PO Edwards by their vests and “threw” them to the ground. PO Edwards did not characterize the action in this manner, though he did indicate that § 87(2)(b) had grabbed a hold of PO Vazquez after wrestling with PO Edwards. PO Vazquez admitted that he removed his pepper spray and threatened to use it, at which time § 87(2)(b) stopped resisting and the officers placed him on the ground and handcuffed him.

Assessment of Evidence

§ 87(2)(g)

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

Allegations Not Pleaded

§ 87(2)(g)

Furthermore, § 87(2)(b) and § 87(2)(b) indicated that they went to the stationhouse and retrieved § 87(2)(b)'s property, but did not indicate that the property was damaged.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) made no allegation that PO Vazquez threatened to use pepper spray against him; § 87(2)(b) only stated that PO Vazquez removed his pepper spray, but then did not use it and did not threaten to use it.

Allegation A. Abuse of Authority – Officer Dustin Edwards stopped § 87(2)(b)

§ 87(2)(g)

Allegation B. Abuse of Authority – Officer Mark Vazquez stopped § 87(2)(b)

§ 87(2)(g)

Allegation C. Abuse of Authority – Officer Dustin Edwards searched § 87(2)(b)

Allegation D. Abuse of Authority – Officer Mark Vazquez searched § 87(2)(b)

§ 87(2)(g)

Allegation E. Offensive Language – Officer Dustin Edwards made remarks to § 87(2)(b) based upon race.

§ 87(2)(g)

Allegation F. Force – Officer Mark Vazquez used physical force against § 87(2)(b)

Allegation G. Force – Officer Dustin Edwards used physical force against § 87(2)(b)

Allegation H. Abuse of Authority – PO Mark Vazquez threatened § 87(2)(b) with the use of force.

Patrol Guide procedure 203-11 (enclosure A1-A2) directs officers to use the minimal level of force necessary to effect an arrest and to take measures to avoid causing injury. § 87(2)(g)

§ 87(2)(g) New York State penal law 35.30 justifies the use of force when an arrest is resisted. § 87(2)(g)

§ 87(2)(g), § 87(4-

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: